

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OLADAPO ONAGORUWA,

Plaintiff,

VS.

**DAVID MCLAUCHLIN, EMPIRE
COACH LINE, INC. AND
PENNSYLVANIA
MANUFACTURERS
ASSOCIATION INSURANCE
COMPANY,**

CIVIL ACTION

FILE NO.: _____

Defendants.

**DEFENDANTS EMPIRE COACH LINE, INC., PENNSYLVANIA
MANUFACTURERS ASSOCIATION INSURANCE COMPANY
AND PURPORTED DEFENDANT DAVID MCLAUCHLIN'S JOINT
NOTICE OF REMOVAL**

COME NOW, **EMPIRE COACH LINE, INC. and PENNSYLVANIA MANUFACTURES ASSOCIATION INSURANCE COMPANY**, Defendants in the above-styled civil action, and **DAVID MCLAUHLIN**, a purported Defendant in the above-styled civil action, appearing specially and without waiving, but specifically reserving all defenses arising from jurisdiction, service and process (hereinafter “Defendants”), and hereby remove Civil Action File No. 21-C-03536-S4 from the State Court of Gwinnett County to the United States

District Court for the Northern District of Georgia, Atlanta Division, pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for its removal state as follows:

STATEMENT OF THE CASE

1.

Defendants have been sued in a civil action brought in the State Court of Gwinnett County, which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders and documents from the State Court Action have been attached as Defendants' Exhibit 1 (hereinafter "D-1").

2.

The present matter is an action for damages for bodily injuries stemming from a June 25, 2019 bus accident involving Plaintiff Oladapo Onagoruwa and Defendant David McLauchlin (hereinafter "the subject accident"). D-1, Complaint, ¶¶ 6-9. Plaintiff makes claims against Defendant David McLauchlin for (i) ordinary negligence. *Id.*, Complaint, ¶¶ 12-14. Plaintiff makes claims against Defendant Empire Coach Line, Inc. for (i) imputed liability for the actions of Defendant David McLauchlin and (ii) negligent hiring, training and supervision.

Id., Complaint, ¶¶ 16-18 and 20-23. Plaintiff makes claims against Defendant Pennsylvania Manufacturers Association Insurance Company for (i) direct action pursuant to O.C.G.A. § 40-2-140. *Id.*, Complaint, ¶¶ 25-28.

3.

The Complaint was filed on May 11, 2021, in the State Court of Gwinnett County, Civil Action File No. 21-C-03536-S4. *See* D-1, Complaint. Defendant Empire Coach Line, Inc. was served with the Summons and Complaint on May 20, 2021, 2021. Defendant Pennsylvania Manufacturers Association Insurance Company was served with the Summons and Complaint on May 24, 2021. Purported Defendant David McLauchlin has yet to be served with the Summons and Complaint.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

4.

Plaintiff Oladapo Onagoruwa is a citizen of the State of Georgia. D-1, Complaint, ¶ 1. Purported Defendant David McLauchlin is, and was at the time this lawsuit was filed, a citizen of the State of Florida. D-1, Complaint, ¶ 2. Defendant Empire Coach Line, Inc. is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Florida, with its principal place of business in Florida. D-1, Complaint, ¶ 3. Defendant Pennsylvania

Manufacturers Association Insurance Company is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Pennsylvania with its principal place of business in the State of Pennsylvania. D-1, Complaint, ¶ 4. Therefore, there is complete diversity of citizenship between the parties.

5.

On April 14, 2021, Plaintiff's counsel sent correspondence to the third-party administrator for Defendant Pennsylvania Manufacturers Association Insurance Company demanding settlement of the Plaintiff's claims in the amount of \$2,500,000.00. See Demand attached as Defendants' Exhibit 2 (hereinafter "D-2"). Plaintiff's Complaint also avers that "[a]s a result of Defendants' negligence, Plaintiff suffered a significant back injury, wrist injury, and neck injury. . . [and] incurred past medical expenses and has been unable to work." D-1, Complaint, ¶¶ 30-32. Plaintiff's Complaint additionally avers that "Defendants' conduct was reckless, willful and wanton and demonstrates a conscious indifference to the consequences of their actions and entitles Plaintiff to an aware of punitive damages." D-1, Complaint, ¶ 35.

6.

In the present case, given the damages claimed by Plaintiff, it is apparent from Plaintiff's Complaint and all exhibits that the requisite \$75,000.00 amount in controversy requirement set forth in 28 U.S.C. § 1332(a) has been met.

**ALL PROCEDURAL REQUIREMENTS
FOR REMOVAL HAVE BEEN SATISFIED**

7.

This Joint Notice of Removal is filed within 30 days from the date that Defendant Empire Coach Line, Inc. was served with the Summons and Complaint in this matter. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. § 1446(b)(2)(A), "all defendants who have been properly joined and served must join in or consent to the removal of the action." Defendants Empire Coach Line, Inc., Pennsylvania Manufacturers Association Insurance Company and Purported Defendant David McLauchlin expressly consent to the removal of this action, and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

9.

Defendants Empire Coach Line, Inc. and Pennsylvania Manufacturers Association Insurance Company and Purported Defendant David McLauchlin will promptly service this Joint Notice of Removal on counsel of record for Plaintiff via Certified Mail. A written notice will also be filed with the Clerk of the State Court of Gwinnett County, Georgia.

CONCLUSION

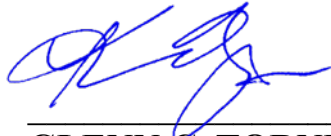
By this Joint Notice of Removal, Defendants Empire Coach Line, Inc., Pennsylvania Manufacturers Association Insurance Company and David McLauchlin do not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action.

Defendants Empire Coach Line, Inc., Pennsylvania Manufacturers Association Insurance Company and David McLauchlin intend no admission of fact, law or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendants Empire Coach Line, Inc., Pennsylvania Manufacturers Association Insurance Company and David McLauchlin pray that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 17th day of June 2021.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANTS EMPIRE COACH LINE, INC., PENNSYLVANIA MANUFACTURERS ASSOCIATION INSURANCE COMPANY AND PURPORTED DEFENDANT DAVID MCLAUCHLIN'S JOINT NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which and have served a copy of same upon all counsel, via Certified Mail, and email addressed as follows:

Ryan Rucker, Esq.
THE DRESSIE LAW FIRM
3500 Lenox Road, Suite 1500
Atlanta, GA 30326
Attorney for Plaintiff

CERTIFICATE OF COMPLIANCE

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

[Signature contained on next page.]

This 17th day of June 2021.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**



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